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September 16, 1996

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

VIA HAND DELIVERY

David Furth, Chief
Commercial Wireless Division
Wireless Telecommunications Bureau
Federal Communications Commission
2025 M Street, N.W. Room 7002
Washington, D.C. 20554

Re: Paging Issues Relating to WT Docket 96-18

Dear Mr. Furth:

Pursuant to your recent discussions with Robert Hoggarth of PCIA, set forth below are several outstanding licensing issues pertaining to the currently pending paging proceeding (WT Docket 96-18) that require clarification. The issues have been raised by various paging licensees and, as we have received differing responses on these issues from Commission staff in the Gettysburg and D.C. offices, further clarification from the Commission is requested to provide a level of certainty for licensees and applicants during the interim licensing period.

We believe it would be most beneficial for the Commission to provide a written response to each issue. However, it may be appropriate to meet with Commission staff to discuss and resolve the outstanding issues with a written follow-up from PCIA.

1. Calculation of Interference Contour

An issue exists regarding whether a 929 MHz licensee which is calculating its interference contour for purposes of adding "fill-in" sites is permitted to use either of the following methods: (i) the 21 dBuV/m standard, which is specifically provided for in the Commission's Notice of Proposed Rulemaking, WT Docket No. 96-18, PP Docket No. 93-253, at para. 140 fn. 271 ("Paging NPRM"); or (ii) Commission Rule 22.537 (f), as indicated in the Commission's April 5, 1996 Public Notice. Enclosed for reference are the

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following: (i) standard 929 MHz dismissal letter for Form 600s requesting fill-in sites (Ex. 1); and (ii) a letter dated July 16, 1996 from Ellen Mandell, Esq. to Laura Smith, Esq. of the Commission (Ex. 2) which indicates that either calculation method is permitted (presumably without regard to whether the application was filed **after** the release of the Commission's April 5, 1996 Public Notice). PCIA understands that Commission staff in Gettysburg have indicated that the only permissible method of calculating whether a site is a 100% fill-in is through compliance with Commission Rule 22.537(f). Clarification is requested on this issue for those licensees which filed applications using the 21 dBu standard specified in the Paging NPRM either prior to, or after, the Commission's release of the April 5, 1996 Public Notice.

2. Definition of Fill-In Site

Various licensees have requested clarification on whether a site should be categorized as a fill-in or expansion site for purposes of construction and license status (i.e. can a licensee add a site which "fills in" between the composite contour of the following types of perimeter sites: (i) granted and constructed facilities; (ii) granted facilities which are not yet constructed and the applicable construction date has not expired; and/or (iii) pending facilities which were coordinated prior to the February 8, 1996 freeze date, but have not yet been granted.

3. Expansion Rights

The Order on Reconsideration of First Report and Order released on June 11, 1996 stated that as a result of certain Commission processing backlogs, incumbents could expand 65 km (40 mi) from sites for which applications were filed as of September 30, 1995, whether or not such applications were granted prior to February 8, 1996. The Order on Reconsideration focused primarily on 931 MHz applicants and PCIA filed for reconsideration to address expansion rights for pending applications in the other bands. Clarification is requested on the status of PCIA's Petition.

4. Conditional Licensing

Clarification is requested on the status of conditional licensing for PCP applications coordinated prior to the August 10,

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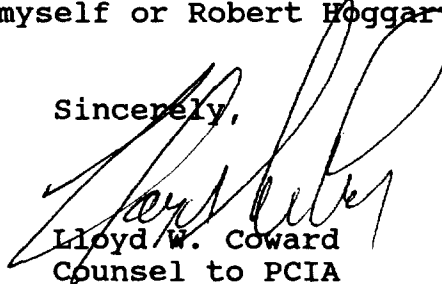
1996 CMRS changeover date (i.e. expansion applications filed with the Commission on or before July 31, 1996 under the Interim Rules), which will not be acted upon until after August 10, 1996. A review of the Commission's Order released August 9, 1996 (DA 96-1277) indicates that the Commission afforded a 120 day period to continue operation for those licensees which were operating under Commission Rule 90.159 as of August 10, 1996. It is PCIA's understanding that the "blanket STA" includes not only licensees operating pursuant to conditional authority under Rule 90.159, but those licensees which were operating pursuant to a grant of special temporary authority under Commission Rule 90.145 as of August 10, 1996. Clarification is requested as to whether PCIA's understanding on this issue is correct.

5. 929 MHz Applications For Fill-In Sites

It is our understanding that 929 MHz licensees are not required to submit an FCC Form 600 Application to add a 100% fill-in site (i.e. no expansion of the interference contour of the incumbent's system). Enclosed for reference (Ex. 3) is a letter dated July 12, 1996 from the Commission's Gettysburg, PA to a licensee regarding this issue which indicates that such filings are not required. We request that the Commission confirm whether PCIA's understanding on this issue is correct.

Thank you for your attention to this matter. Should you have any questions or require additional information, please do not hesitate to contact either myself or Robert Hoggarth.

Sincerely,



Lloyd W. Coward
Counsel to PCIA

Enclosures

cc: Sandra K. Danner
Terry L. Fishel
Laura Smith

Federal Communications Commission
1270 Fairfield Road
Gettysburg, PA 17325-7245

Exhibit 1

NOTICE OF APPLICATION DISMISSAL

[REDACTED]
[REDACTED]
Reply To: SAW

Date: 7/18/96

Radio Service: GS

Call Sign/File Number [REDACTED]

Your application(s) in the Land Mobile Radio Services has been determined to be defective and is DISMISSED in accordance with Section 1.958 of the Commission's Rules for the reason(s) indicated below. If you are operating under a Conditional Temporary Authority, you must cease operations immediately, see Rule 90.159. If you refile, a new fee may be required. The application and fee must be filed at the proper location as found in the Wireless Telecommunications Bureau Fee Filing Guide or FCC 10702. Applications requiring frequency coordination must be submitted to the appropriate certified frequency coordinator. See Section 90.175 of the Commission's Rules. For further information, contact the Consumer Assistance Branch at (800) 322-1117 or (717) 338-2500.

Applications filed after February 8, 1996 (the adoption date of the Notice of Proposed Rule Making and the effective date of the interim licensing freeze) and before May 10, 1996, (the effective date of the First Report and Order and the relaxation of the freeze) which do not comply with those types of applications excepted from the freeze as noted above should be dismissed with the following language "Your application which was received by the Commission after February 8, 1996, the effective date of an interim licensing freeze on paging frequencies, is defective and hereby dismissed because it does not comply with the provisions of the freeze (See Notice of Proposed Rule Making in WT Docket 96-18, FCC 96-52)".

The Bureau released a PN dated April 5, 1996 which clarified the definition of interference contour for 929 MHz licensees on exclusive channels as that under 47 CFR 22.537(f). Such additions or modifications are allowed without prior Commission approval.

Sincerely,

Sharon A. Weagle
for Chief, Land Mobile Branch

FCC 574E
March 1996

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Exhibit

James R. Smith

1. Introduction

1. INTRODUCTION

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1-800-368-6378

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Dear Mrs. Smith:

WTS Docket No. 96-28.

directly. Thank you for your assistance in this matter.

Very truly yours,

FRAPER & CONAZZINI, L.L.P.

By Elizabeth S. Mandell

CC: Sandra K. Danner
Mike Savily
James S. Gumbert

TOTAL P.01

Federal Communications Commission

1270 Fairfield Road
Gettysburg, PA 17325-7245

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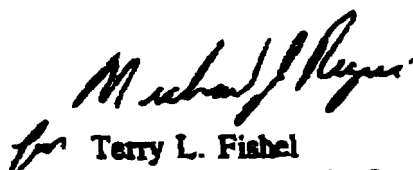
In Reply Refer To:
7110-02

Vincent H. Petti
Executive Vice President
Communication Innovations Corporation
145 Huguenot Street
New Rochelle, NY 10801

Dear Mr. Petti:

This confirms your understanding of the flexibility that 929 MHz licensees have to make system changes during the pendency of the proceedings in the matter of *Revision of Part 22 and Part 90 of the Commission's Rules to Facilitate Future Development of Paging Systems*¹. Specifically, the NPRM adopted February 8, 1996 at paragraphs 140-141 permit incumbent licensees to add sites to existing systems or modify existing sites, provided that such additions or modifications do not expand the interference contour of the incumbent's existing system. The NPRM authorizes 929 MHz licensees the same flexibility as Part 22 licensees to make such additions or modifications without prior Commission approval if the site does not expand the licensee's interference contour.² Further, as noted in your June 12, 1996 letter, in Public Notice DA 96-538 dated April 5, 1996, the Wireless Telecommunications Bureau directed 929 MHz licensees to use the criteria in 47 CFR §22.537(f) to determine interference contour. As stated in your correspondence, such modifications or changes do not require frequency coordination by PCIA and do not require an application to be filed. We would appreciate, however, notification of such modifications in responses to construction inquiries.

Sincerely,


for Terry L. Fiabel
Chief, Land Mobile Branch

¹ WT Docket No. 96-18.

² See also ¶¶33-35 of the *First Report and Order* in WT Docket 96-18 adopted April 22, 1996.